

## **IC 36-1-11**

### **Chapter 11. Disposal of Real or Personal Property**

#### **IC 36-1-11-1**

##### **Application of chapter**

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the disposal of property by:

- (1) political subdivisions; and
- (2) agencies of political subdivisions.

(b) This chapter does not apply to the following:

- (1) The disposal of property under an urban homesteading program under IC 36-7-17 or IC 36-7-17.1.
- (2) The lease of school buildings under IC 20-47.
- (3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.
- (4) The disposal of property by a redevelopment commission established under IC 36-7.
- (5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.
- (6) The disposal of a municipally owned utility under IC 8-1.5.
- (7) The sale or lease of property by a unit to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.
- (8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- (9) The sale or lease of property acquired under IC 36-7-13 for industrial development.
- (10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.
- (11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.
- (12) The disposition of property by a soil and water conservation district under IC 14-32.
- (13) The sale, lease, or disposal of property by the health and hospital corporation established and operated under IC 16-22-8.
- (14) The disposal of personal property by a library board under IC 36-12-3-5(c).
- (15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.
- (16) The disposal of an interest in property by a housing authority under IC 36-7-18.
- (17) The disposal of property under IC 36-9-37-26.
- (18) The disposal of property used for park purposes under IC 36-10-7-8.
- (19) The disposal of curricular materials that will no longer be

used by school corporations under IC 20-26-12.

(20) The disposal of residential structures or improvements by a municipal corporation without consideration to:

(A) a governmental entity; or

(B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.

(21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property" means property that is:

(A) listed on the National Register of Historic Places; or

(B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.

(22) The disposal of real property without consideration to:

(A) a governmental agency; or

(B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;

when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.

(23) The disposal of property to a person under an agreement between the person and a political subdivision or an agency of a political subdivision under IC 5-23.

(24) The disposal of residential real property pursuant to a federal aviation regulation (14 CFR 150) Airport Noise Compatibility Planning Program as approved by the Federal Aviation Administration.

*As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.1; P.L.16-1983, SEC.21; P.L.182-1985, SEC.15; P.L.214-1986, SEC.1; P.L.2-1987, SEC.49; P.L.214-1989, SEC.5; P.L.336-1989(ss), SEC.44; P.L.162-1991, SEC.4; P.L.2-1993, SEC.198; P.L.98-1993, SEC.11; P.L.1-1994, SEC.172; P.L.165-1994, SEC.1; P.L.1-1995, SEC.79; P.L.310-1995, SEC.1; P.L.82-1995, SEC.7; P.L.49-1997, SEC.69; P.L.76-1998, SEC.1; P.L.1-2005, SEC.234; P.L.184-2005, SEC.37; P.L.2-2006, SEC.188; P.L.154-2012, SEC.4; P.L.118-2013, SEC.11; P.L.286-2013, SEC.128.*

## **IC 36-1-11-2**

### **Definitions**

Sec. 2. The following definitions apply throughout this chapter:

(1) "Disposal" means sale, exchange, transfer, or lease of property.

(2) "Disposing agent" means the board or officer of a political subdivision or agency having the power to award contracts for which public notice is required, with respect to property of the

political subdivision or agency.

(3) "Key number" has the meaning set forth in IC 6-1.1-1-8.5.

(4) "Operating agreement" has the meaning set forth in IC 5-23-2-7.

(5) "Person" means any association, corporation, limited liability company, fiduciary, individual, joint venture, partnership, sole proprietorship, or any other legal entity.

(6) "Property" means all fixtures and real property to be included in a disposal.

(7) "Tract" has the meaning set forth in IC 6-1.1-1-22.5.

*As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.23; P.L.82-1995, SEC.8; P.L.49-1997, SEC.70.*

### **IC 36-1-11-3**

#### **Approval**

Sec. 3. (a) This section does not apply to the disposal of real property under section 5, 5.5, 5.9, 8, or 18 of this chapter.

(b) Disposal of real property under this chapter is subject to the approval of:

- (1) the executive of the political subdivision or agency; or
- (2) the fiscal body of the political subdivision or agency, if there is no executive.

The executive or fiscal body may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1. However, in a municipality the executive shall designate a board or commission of the municipality to give notice, conduct the hearing, and notify the executive of its recommendation.

(c) Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve:

- (1) every sale of real property having an appraised value of fifty thousand dollars (\$50,000) or more;
- (2) every lease of real property for which the total annual rental payments will be twenty-five thousand dollars (\$25,000) or more; and
- (3) every transfer of real property under section 14 or 15 of this chapter.

*As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.2; P.L.331-1985, SEC.1; P.L.330-1985, SEC.3; P.L.35-1990, SEC.43; P.L.82-1995, SEC.9; P.L.124-1998, SEC.11; P.L.27-2008, SEC.1; P.L.257-2013, SEC.40.*

### **IC 36-1-11-3.1**

#### **Sale of residential real property; disapproval**

Sec. 3.1. (a) In addition to any other reason for disapproving a disposal of property under section 3 of this chapter, the executive of a consolidated city may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that:

- (1) the bidder will reside on that property for at least one (1) year after the bidder obtains possession of it; and
- (2) the bidder is eligible to purchase the property under section

16 of this chapter.

(b) When the executive exercises disapproval under this section, the property may be sold to the highest bidder who also presents an affidavit declaring that:

- (1) the bidder will reside on that property for a one (1) year period after the bidder obtains possession; and
- (2) the bidder is eligible to purchase the property under section 16 of this chapter.

*As added by Acts 1981, P.L.306, SEC.1. Amended by P.L.60-1988, SEC.24.*

### **IC 36-1-11-3.2**

#### **Approval of sale, lease, or transfer of real property in certain cities**

Sec. 3.2. (a) This section applies to a city having a population of:

- (1) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);
- (2) more than twenty-nine thousand six hundred (29,600) but less than twenty-nine thousand nine hundred (29,900); or
- (3) more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(b) Notwithstanding section 3(c) of this chapter, the fiscal body of a city must approve:

- (1) every sale of real property having an appraised value of ten thousand dollars (\$10,000) or more;
- (2) every lease of real property for which the total annual rental payments will be five thousand dollars (\$5,000) or more; and
- (3) every transfer of real property under section 14 or 15 of this chapter.

*As added by P.L.124-1998, SEC.12. Amended by P.L.170-2002, SEC.138; P.L.119-2012, SEC.177.*

### **IC 36-1-11-4**

#### **Sale or transfer of real property; procedure**

Sec. 4. (a) A disposing agent who wants to sell or transfer real property must comply with this section, except as permitted by section 4.1, 4.2, 5, 5.5, 5.7, 5.9, 8, 14, 15, or 18 of this chapter.

(b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:

- (1) professionally engaged in making appraisals;
- (2) licensed under IC 25-34.1; or
- (3) employees of the political subdivision familiar with the value of the property.

(c) After the property is appraised, the disposing agent shall publish a notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale and, when subsection (e) is employed, may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and to conduct a public auction. The advertising conducted by the auctioneer is in addition to any other notice required by law and shall include a detailed description of the property to be sold stating the key numbers, if any, of the tracts within that property. If the

disposing agent determines that the best sale of the property can be made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state the following:

- (1) Bids will be received beginning on a specific date.
- (2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.
- (3) The property may not be sold to a person who is ineligible under section 16 of this chapter.
- (4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
  - (A) beneficiary of the trust; and
  - (B) settlor empowered to revoke or modify the trust.

(d) A bid must be open to public inspection. A bidder may raise the bidder's bid, and subject to subsection (e), that raise takes effect after the board has given written notice of that raise to the other bidders.

(e) The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

(f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the average of the two (2) appraisals of the tracts only after an additional notice stating the amount of the bid to be accepted is published in accordance with IC 5-3-1. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

(g) If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. A disposing agent may hire a broker to sell real property directly rather than using the bid process under subsections (c) through (f) if:

- (1) the disposing agent publishes a notice of the determination to hire the broker in accordance with IC 5-3-1; and
- (2) the property has been up for bid for at least sixty (60) days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received.

The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

(h) The following apply if a broker is hired under subsection (g):

(1) The property may not be sold to a person who is ineligible under section 16 of this chapter.

(2) If the property is sold to a trust (as defined in IC 30-4-1-1(a)), the following information must be placed in the public record relating to the sale:

(A) Each beneficiary of the trust.

(B) Each settlor empowered to revoke or modify the trust.

*As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.3; P.L.32-1983, SEC.10; P.L.331-1985, SEC.2; P.L.330-1985, SEC.4; P.L.60-1988, SEC.25; P.L.336-1989(ss), SEC.45; P.L.165-1994, SEC.2; P.L.188-2007, SEC.2; P.L.27-2008, SEC.2; P.L.188-2011, SEC.1; P.L.257-2013, SEC.41.*

#### **IC 36-1-11-4.1**

##### **Sale or transfer of real property, including provision for leaseback; notice; bids**

Sec. 4.1. (a) This section applies to a disposing agent who wants to sell or transfer real property, and as a condition of sale, includes a provision for a leaseback or leaseback with option to repurchase.

(b) The disposing agent shall publish notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale. The notice must state the following:

(1) Bids will be received beginning on a specific date.

(2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.

(3) The property may not be sold or transferred to a person who is ineligible under section 16 of this chapter.

(4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(c) A bid must be open to public inspection.

(d) After the period for receiving bids has expired, a disposing agent may sell the property to the highest and best eligible bidder. The highest and best eligible bidder must have complied with any requirement under subsection (b)(4).

(e) IC 36-1-10 does not apply to this section.

*As added by Acts 1982, P.L.208, SEC.4. Amended by P.L.60-1988, SEC.26; P.L.336-1989(ss), SEC.46.*

#### **IC 36-1-11-4.2**

##### **Sale or transfer of real property not acquired through eminent domain to promote an economic development project or facilitate compatible land use planning**

Sec. 4.2. (a) This section applies to a disposing agent who wants to sell or transfer real property not acquired through eminent domain procedures for any of the following purposes:

(1) To promote an economic development project.

- (2) To facilitate compatible land use planning.
- (b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:
  - (1) professionally engaged in making appraisals;
  - (2) licensed under IC 25-34.1; or
  - (3) employees of the political subdivision familiar with the value of the property.
- (c) Subject to subsection (d), the disposing agent may:
  - (1) negotiate a sale or transfer; and
  - (2) dispose of the real property;at a value that is not less than the average of the two (2) appraisals under subsection (b).

(d) The disposing agent may dispose of the real property for a value that is not less than the average of the two (2) appraisals under subsection (b) only after publishing a notice in accordance with IC 5-3-1 stating the amount of the offer to be accepted. The disposing agent may reject all offers. If the disposing agent rejects all offers, the disposing agent must make a written determination to reject all offers explaining why all offers were rejected.

*As added by P.L.165-1994, SEC.3. Amended by P.L.188-2011, SEC.2.*

### **IC 36-1-11-4.3**

#### **Public easement or right-of-way**

Sec. 4.3. Notwithstanding any provision of this chapter, a sale or transfer under this chapter of property constituting a public easement or right of way does not deprive a public utility of the use of all or part of the public easement or right of way that is sold or transferred if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right of way for the location and operation of its facilities.

*As added by P.L.188-2011, SEC.3.*

### **IC 36-1-11-5**

#### **Sale of property having certain value or previously part of right-of-way; rights of abutting landowners; procedures**

Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

- (1) touches, borders on, or is contiguous to the property that is the subject of sale; and
- (2) does not constitute a:
  - (A) public easement; or
  - (B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

- (1) appraisal fees;
- (2) title insurance;
- (3) recording fees; and
- (4) advertising costs.

(c) The disposing agent may proceed under this section if either of the following applies:

(1) The assessed value of a tract of real property to be sold is less than fifteen thousand dollars (\$15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired.

(2) If the property has not been assessed and the property was previously part of a public right-of-way.

(d) The disposing agent may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars (\$6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.

(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:



(1) If only one (1) abutting landowner makes an eligible offer to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

*As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.47-1983, SEC.5; P.L.332-1985, SEC.1; P.L.333-1985, SEC.1; P.L.60-1988, SEC.27; P.L.336-1989(ss), SEC.47; P.L.165-1994, SEC.4; P.L.170-2003, SEC.17; P.L.188-2011, SEC.4.*

#### **IC 36-1-11-5.5**

##### **School corporations; sale or transfer of real property or tangible or intangible personal property or licenses**

Sec. 5.5. Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a school corporation may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses that are used in, or related to, the operation of a radio station by a school corporation;

for no compensation or a nominal fee to a not-for-profit corporation created for educational or recreational purposes unless the corporation is subject to section 16 of this chapter.

*As added by Acts 1982, P.L.208, SEC.5. Amended by P.L.215-1986, SEC.1; P.L.60-1988, SEC.28; P.L.342-1989(ss), SEC.36; P.L.165-1994, SEC.5; P.L.49-1997, SEC.71.*

#### **IC 36-1-11-5.6**

##### **Sale or transfer of property to a nonprofit corporation**

Sec. 5.6. Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a county having a population of more than seventy thousand (70,000) but less than seventy thousand fifty (70,050) may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property;

for no compensation or a nominal fee to a nonprofit corporation

created for agricultural, educational, or recreational purposes.  
*As added by P.L.10-2001, SEC.1. Amended by P.L.170-2002, SEC.139; P.L.119-2012, SEC.178.*

#### **IC 36-1-11-5.7**

##### **Sale or transfer of real property or tangible or intangible personal property or licenses to volunteer fire department, fire protection district, or fire protection territory**

Sec. 5.7. (a) As used in this section, "fire department" refers to any of the following:

- (1) A volunteer fire department (as defined in IC 36-8-12-2).
- (2) The board of fire trustees of a fire protection district established under IC 36-8-11.
- (3) The provider unit of a fire protection territory established under IC 36-8-19.

(b) Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

- (1) real property; or
- (2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a fire department for construction of a fire station or other purposes related to firefighting.

*As added by P.L.188-2007, SEC.3. Amended by P.L.128-2008, SEC.6.*

#### **IC 36-1-11-5.9**

##### **Sale or transfer of real property acquired by tax default; rights of abutting landowners; procedures**

Sec. 5.9. (a) As used in this section, "abutting landowner" has the meaning set forth in section 5(a) of this chapter.

(b) As used in this section, "real property acquired by tax default" means the following:

- (1) Real property for which a county holds a tax deed issued under IC 6-1.1-25.
- (2) Real property acquired by a political subdivision from a county under section 8 of this chapter if at the time of transfer the county held a tax deed issued under IC 6-1.1-25 for the real property.

(c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and subject to the procedures described in subsections (d) and (e), a disposing agent of a political subdivision may sell or transfer real property acquired by tax default without consideration or for a nominal consideration to an abutting landowner.

(d) A disposing agent who desires to transfer real property acquired by tax default to an abutting landowner shall send notice by certified mail to all abutting landowners. The notice must identify the tracts intended for sale by legal description and, if possible, by key

number and street address. The notice must also include a statement that:

- (1) the disposing agent is authorized to transfer the property for no consideration or for nominal consideration;
- (2) the property may not be sold to a person who is ineligible under section 16 of this chapter; and
- (3) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
  - (A) beneficiary of the trust; and
  - (B) settlor empowered to revoke or modify the trust.

(e) Not earlier than fourteen (14) days after a disposing agent sends the notice described in subsection (d) to the abutting landowners of a tract, the disposing agent shall conduct the negotiation and sale of the tract under this section as follows:

- (1) If only one (1) eligible abutting landowner makes an offer to purchase the tract, then subject to section 16 of this chapter and without appraisal or further notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.
- (2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (d)(3).

*As added by P.L.27-2008, SEC.3.*

#### **IC 36-1-11-6**

##### **Repealed**

*(Repealed by P.L.49-1997, SEC.86.)*

#### **IC 36-1-11-7**

##### **Exchange of property with persons other than governmental entity; procedure**

Sec. 7. (a) A disposing agent who exchanges property must proceed under this section, except as permitted by section 8 or 18 of this chapter.

(b) An exchange may be made with a person who is:

- (1) not a governmental entity; and
- (2) eligible under section 16 of this chapter;

only after advertisement following as nearly as practical the procedure prescribed by section 4 of this chapter, with the property the disposing agent conveys to be partial or full payment for the property the disposing agent receives.

*As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.29; P.L.257-2013, SEC.42.*

#### **IC 36-1-11-8**

##### **Exchange of property with governmental entity**

Sec. 8. A transfer or exchange of property may be made with a governmental entity upon terms and conditions agreed upon by the entities as evidenced by adoption of a substantially identical resolution by each entity. Such a transfer may be made for any amount of real property, cash, or other personal property, as agreed upon by the entities.

*As added by Acts 1981, P.L.57, SEC.37.*

#### **IC 36-1-11-9**

##### **Trade or exchange as part of purchase price of new property**

Sec. 9. Whenever a disposing agent purchases new property with a condition that property of a similar nature is to be traded in or exchanged as part of the purchase and in reduction of the purchase price, the exchange or trade-in may be made without compliance with section 7 of this chapter but must comply with section 16 of this chapter.

*As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.30.*

#### **IC 36-1-11-10**

##### **Lease of property; procedure**

Sec. 10. (a) A disposing agent may lease property rather than sell, transfer, or exchange it under this chapter only if the disposing agent determines that a lease rather than a sale, transfer, or exchange would be in the best interest of the disposing agent's political subdivision or agency and the public. Except as provided in section 12 of this chapter, the disposing agent must proceed under this section in leasing property.

(b) The disposing agent shall first have the property appraised in the manner prescribed in section 4(b) of this chapter, except that the appraisers shall determine the fair market rental value of the property.

(c) The disposing agent shall receive bids in the manner prescribed in section 4 of this chapter and lease the property to the highest and best bidder. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

(d) The disposing agent shall determine the terms and conditions of any lease under this section, which may include options to renew and options to purchase. The property may not be leased to a person who is ineligible under section 16 of this chapter.

(e) The terms of a lease with option to purchase may provide that all or part of the rental payments under the lease apply to the purchase price. The purchase price must be equal to at least the minimum sale price determined under section 4(f) of this chapter.

(f) Property owned by a political subdivision or agency may be leased for a term longer than three (3) years if the lease is approved by the fiscal body of the political subdivision.

(g) The disposing agent may lease the real property under this section for a value that is less than ninety percent (90%) of the appraised fair market rental value as determined by the average of the

two (2) appraisals under section 4(b) of this chapter only after publishing an additional notice in accordance with IC 5-3-1, stating the amount of the bid to be accepted. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

*As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.339-1983, SEC.1; P.L.60-1988, SEC.31; P.L.188-2011, SEC.5.*

#### **IC 36-1-11-11**

##### **Execution of deed or other instrument**

Sec. 11. Whenever:

- (1) there is a dispute concerning the interest in any property of a political subdivision, and the executive considers the dispute not frivolous; or
- (2) it would facilitate the establishment of title to any property; a deed or other instrument may be executed on behalf of the political subdivision to a person who is eligible to receive the deed or instrument under section 16 of this chapter for any consideration that the disposing agent considers fair and in the public interest.

*As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.32.*

#### **IC 36-1-11-12**

##### **Lease of property; alternative procedure**

Sec. 12. The following procedure may be used instead of that in section 10 of this chapter if the disposing agent makes a written determination (which must include the disposing agent's reasons) that the use of section 10 of this chapter is not feasible, and authorization to use this procedure is granted by the executive of the political subdivision or agency:

- (1) Proposals to develop specifications shall be solicited through a request for proposals, which must include all of the following:
  - (A) The factors or criteria that will be used in evaluating the proposals, including a statement that:
    - (i) the property may not be leased to a person who is ineligible under section 16 of this chapter; and
    - (ii) a proposal submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each beneficiary of the trust and each settlor empowered to revoke or modify the trust.
  - (B) A statement concerning the relative importance of price and the other evaluation factors.
  - (C) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.
  - (D) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
- (2) Notice of the request for proposals shall be given by publication in accordance with IC 5-3-1.

(3) As provided in the request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

(4) Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

(5) After the procedures outlined in this section have been completed, the disposing agent shall make a determination as to the most appropriate response to the request for proposals and shall dispose of the subject property in accordance with that response.

(6) Access to the proposals under this chapter shall be determined in accordance with the provisions of IC 5-23-7.

(7) The person submitting the successful proposal is not responsible for the requirements set forth in IC 5-22 with regard to the purchase of supplies if the purchase of supplies was included within the proposal or the supplies are not paid for with public funds.

*As added by P.L.339-1983, SEC.2. Amended by P.L.60-1988, SEC.33; P.L.336-1989(ss), SEC.48; P.L.82-1995, SEC.10; P.L.49-1997, SEC.72.*

#### **IC 36-1-11-13**

##### **Restrictions on lease of county-owned property**

Sec. 13. Notwithstanding any other law, a disposing agent for a county may not lease county-owned property at a rate that deviates more than five percent (5%) from the average square footage rate charged for similar property in that county.

*As added by P.L.38-1984, SEC.3.*

#### **IC 36-1-11-14**

##### **Gift of tract; reconveyance**

Sec. 14. If a tract was originally transferred to a political subdivision as a gift and public funds have not been expended to improve the property since the original transfer, the disposing agent may convey it back to the original grantor or the grantor's successors with their consent without consideration upon a determination by the disposing agent that:

(1) the property is surplus; and

(2) the original grantor or the grantor's successors are eligible to receive the tract under section 16 of this chapter.

*As added by P.L.331-1985, SEC.3. Amended by P.L.60-1988, SEC.34.*

#### **IC 36-1-11-15**

##### **Tract transferred as gift by not-for-profit corporation or organization; reconveyance**

Sec. 15. If a tract was originally transferred to a political subdivision as a gift by a not-for-profit corporation or organization,

the disposing agent may convey it back to the original grantor or the grantor's successors with their consent without consideration upon a determination by the disposing agent that:

- (1) the property is surplus; and
- (2) the original grantor or the grantor's successors are eligible to receive the tract under section 16 of this chapter.

*As added by P.L.330-1985, SEC.5. Amended by P.L.60-1988, SEC.35.*

#### **IC 36-1-11-16**

##### **Purchase, receipt, or lease of property by ineligible persons; eligible persons; effect of ineligibility**

Sec. 16. (a) This section applies to the following:

- (1) A person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed under IC 6-1.1-24-1.
- (2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract that is offered in a sale, exchange, or lease under this chapter.

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the county retains the interest in the tract it possessed before the sale, transfer, or lease of the tract.

*As added by P.L.60-1988, SEC.36. Amended by P.L.342-1989(ss), SEC.37; P.L.98-2000, SEC.18.*

#### **IC 36-1-11-17**

##### **Terms of reconveyance or return**

Sec. 17. If property disposed of under this chapter is to be reconveyed or automatically returned to the political subdivision or an agency of a political subdivision that disposed of the property, the terms of the reconveyance or return shall be as agreed to before the disposal. If the terms of the reconveyance are not set forth before the disposal, the political subdivision shall obtain at least two (2) appraisals and pay not more than the average of the two (2) appraisals.

*As added by P.L.82-1995, SEC.11.*

#### **IC 36-1-11-18**

##### **School corporations in LaPorte County; transfer to governmental agency**

Sec. 18. (a) This section applies to a school corporation located in LaPorte County.

(b) Notwithstanding any other law, a school corporation may transfer real property to any other governmental agency in exchange for services provided to the school corporation.

(c) This section constitutes the only authority necessary for a

school corporation to make real property available for exchange under this section. A school corporation is not required to apply any additional procedures to an exchange made under this section.  
*As added by P.L.257-2013, SEC.43.*